



June 19, 2024

Agreement on PAGA Reform Reached – PAGA Repeal Initiative Removed from the November Ballot

Governor Newsom, legislative leaders, the California Chamber of Commerce and the California Labor Federation have reached an agreement on reforms to the Private Attorneys General Act (PAGA) that avoids a contentious ballot measure campaign. The proposed initiative was aimed at repealing PAGA which gave workers the right to sue their employers for themselves and other workers for labor violations. That proposed initiative will now be kept off the November ballot. In its place, legislation to reform PAGA will be approved and implement the following:

Reform penalty structure

- *Encourages compliance with labor laws by capping penalties on employers who quickly take steps to fix policies and practices, and make workers whole, after receiving a PAGA notice, as well as on employers that act responsibly to take steps proactively to comply with the labor code before even receiving a PAGA notice.*
- *Creates new, higher penalties on employers who act maliciously, fraudulently or oppressively in violating labor laws.*
- *Ensures that more of the penalty money goes to employees by increasing the amount allocated to employees from 25% to 35%.*

Reducing and streamlining litigation

- *Expands which Labor Code sections can be cured to reduce the need for litigation and make employees whole quickly.*
- *Protects small employers by providing a more robust right to cure process through the Labor and Workforce Development Agency (LWDA) to reduce litigation and costs.*
- *Codifies that a court may limit both the scope of claims presented at trial to ensure cases can be managed effectively.*

Improving measures for injunctive relief and standing

- *Allows courts to provide injunctive relief to compel businesses to implement changes in the workplace to remedy labor law violations.*
- *Requires the employee to personally experience the alleged violations brought in a claim.*

Strengthening state enforcement

- *Give the Department of Industrial Relations (DIR) the ability to expedite hiring and fill vacancies to ensure effective and timely enforcement of employee labor claims.*

While the reform bill language is not yet in print, it is our understanding that the compromise legislation does not impact our industry authority that allows signatory contractors to be exempt through their collective bargaining agreement (CBA) from being exposed to PAGA lawsuits. That said, there are two sunset dates in existing law attached to the CBA carveout statute with one expiring 1/1/25 and the other expiring on 1/1/28. The first sunset date will not allow CBAs to benefit from the exemption if a CBA expires between the two dates. The second sunset date eliminates the CBA carveout provision unless extended by the legislature. Union signatory contractor associations had been requesting that language be included in the PAGA compromise bill that would extend or eliminate the carveout sunset dates. Those efforts were rebuffed due to concerns from a few building trades unions. We hope we can work out an agreement with those unions to remove or extend the sunset dates before the end of this year's legislative session which concludes in August.

Once the Legislature approves the bill reflecting the compromise deal and Newsom signs it, the proponents of the businesses backed PAGA repeal initiative will withdraw the ballot measure. The bill must be signed by the governor by June 27, the deadline for the Secretary of State to certify ballot measures for the November general election.